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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,	CR 18-23-M-DLC
Plaintiff,	<u>OFFER OF PROOF</u>
vs.	
WILLIAM DALE NEWHOFF, JR.,	
Defendant.	

Defendant William Dale Newhoff, Jr., has signed a plea agreement pursuant to Rule 11(c)(1)(A) and (B) which contemplates his plea of guilty to count I of the indictment. The plea agreement will be filed today. Count I charges the crime of Prohibited Person in Possession of Firearm, in violation of 18 U.S.C. § 922(g)(1).

The defendant will also admit the forfeiture allegation. The defendant's plea of guilty will be unconditional.

The United States presented any and all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 132 S.Ct. 1399 (2012).

ELEMENTS. In order to prove the charge against the defendant at trial, the United States would have to prove the following elements beyond a reasonable doubt:

Count I:

First, the defendant knowingly possessed a firearm, namely a Hi-Point Firearms, Model C9, 9mm Luger pistol, serial number obliterated; and

Second, the firearm identified above had been shipped and transported from one state to another; and

Third, at the time the defendant possessed the firearm identified above, the defendant had been convicted in a court of a crime punishable by imprisonment for a term exceeding one year.

Forfeiture:

The defendant must also forfeit the Hi-Point Firearms, Model C9, 9mm Luger pistol and any ammunition as it was involved in a knowing violation of count I.

PROOF. If called upon to prove this case at trial, and to provide a factual basis for the defendant's plea, the United States would present, by way of the

testimony of law enforcement officers, lay and expert witnesses, and physical evidence, the following:

In March 2009, Defendant Newhoff was convicted in U.S. District Court, District of Montana, of two felonies: Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1); and Possession of a Stolen Firearm, in violation of 18 U.S.C. § 922(j).

In January 2018, Defendant Newhoff was a federal fugitive. On January 30, 2018, the Missoula County Sheriff's Office located Newhoff in East Missoula, and informed the U.S. Marshal of his location. After a high-speed chase and extensive search, Newhoff was located in a trailer house in Missoula County. When law enforcement located Newhoff standing behind a door, he was holding a Hi-Point Firearms, Model C9, 9 mm Luger pistol, and had ammunition in his jacket pocket. Newhoff was arrested without incident.

In March 2018, ATF agents determined the Hi-Point Firearms, Model C9, 9mm Luger pistol was a firearm and was not manufactured in Montana.

DATED this 24th day of July, 2018.

KURT G. ALME
United States Attorney

/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2018, a copy of the foregoing
document was served on the following persons by the following means:

- (1) CM/ECF
- () Hand Delivery
- () U.S. Mail
- () Overnight Delivery Service
- () Fax
- () E-Mail

- 1) Eric R. Henkel
Attorney for Defendant Newhoff

/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for Plaintiff